

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ROSE D'ANGELO, as administrator of the  
estate of Nicholas Anthony D'Angelo,

Plaintiff,

-against-

UNITED STATES OF AMERICA,  
NORTHPORT VA MEDICAL CENTER,  
DR. QIOA GUO,

Defendants.  
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FEUERSTEIN, District Judge:

**ORDER**

14-CV-00482 (SJF)(GRB)

**FILED**  
IN CLERK'S OFFICE  
U S DISTRICT COURT E D N Y

★ MAY 01 2014 ★

**LONG ISLAND OFFICE**

On January 22, 2014 Rose D'Angelo ("Ms. D'Angelo"), as administrator of the estate of Nicholas Anthony D'Angelo, filed a *pro se* complaint in this Court against the United States of America ("United States"), the Northport VA Medical Center ("Medical Center") and Dr. Qioa Guo ("Dr. Guo") (collectively, "defendants") pursuant to the Federal Tort Claims Act seeking damages for the alleged wrongful death of her son, Nicholas Anthony D'Angelo ("Nicholas D'Angelo"), due to the alleged negligent medical treatment he received while under the care of the Medical Center. By letter dated April 24, 2014, the United States argues that an administrator or executor of an estate may not proceed *pro se* in federal court, and requests that the Court stay this action for sixty (60) days in order to allow Ms. D'Angelo to retain counsel. See Schumacher Letter, dated April 24, 2014 [Docket Entry No. 8] ("the April 24<sup>th</sup> letter").

"[A]n administrator or executor of an estate may not proceed *pro se* when the estate has beneficiaries or creditors other than the litigant." *Guest v. Hansen*, 603 F.3d 15, 20 (2d Cir. 2010) (internal quotation marks and citation omitted). However, if the litigant is the sole beneficiary of the estate, counsel is not required and the litigant may proceed *pro se*. *Id.* at 21.

The Court is unable to determine whether a stay is warranted here because it is unclear from the records whether the estate of Nicholas Anthony D'Angelo has any beneficiaries or creditors other than Ms. D'Angelo. Accordingly, Ms. D'Angelo is directed to submit proof that she is administrator of the estate, and that she is the only beneficiary or creditor of the estate within two (2) weeks from the date of this Order. Alternatively, plaintiff may retain counsel to represent the estate in this case and counsel shall file a notice of appearance within two (2) weeks from the date of this Order. Failure to timely respond to this Order may lead to the dismissal of this case with prejudice. Ms. D'Angelo may contact the Court's *Pro Se* Office for procedural assistance.

**SO ORDERED.**

s/ Sandra J. Feuerstein

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Sandra J. Feuerstein  
United States District Judge

Dated: May 1, 2014  
Central Islip, New York